



United States
Department of
Agriculture

Office of the General Counsel
1400 Independence Ave. SW
Washington, DC 20250-1400

June 20, 2019

Delivered via ELECTRONIC MAIL

Beryl Lipton
MuckRock News
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Somerville, MA 02144-2516
Email: 45530-57955381@requests.muckrock.com

Re: Final Response to Freedom of Information Act Request
FOIA Case No. 2018-OGC-01246-F

Dear Ms. Lipton:

This is the U.S. Department of Agriculture (USDA), Office of General Counsel's (OGC) final response for your enclosed November 6, 2017 Freedom of Information Act (FOIA) request to the USDA Department FOIA Office (DFO). On December 4, 2017, you were informed that your request was being referred to OGC and the Office of the Assistant Secretary for Civil Rights (OASCR) for processing. You requested:

Absolutely any and all logs, reports, spreadsheets, databases, or other materials detailing all settlements or similar dispute resolutions to which this agency, or any division thereof, was a party, including, but not limited to, all conciliatory agreements related to complaints or court or legal proceedings against any representative of or office of this agency. Please include all available segregable data, including the entities involved, the date on which the initial complaint or court action was brought, the nature of the charge or complaint, the nature of the dispute resolution (i.e. in-court, out-of-court, in-agency mediation, third-party, etc.), any financial agreements associated with the settlement, the date on which the case was closed.

On November 28 2018, you agreed to narrow your request to:

1. A report on litigation settlements, as maintained by USDA's headquarters' OGC;
2. A report on settlements of EEO litigation as maintained by USDA's OASCR.

After review, OGC has determined to release one Excel spreadsheet being withheld in part pursuant to FOIA Exemptions (b)(6), as outlined below.

Exemption 6 U.S.C. §552(b)(6) – Personal Privacy Interests

Exemption 6 generally is referred to as the “personal privacy” exemption; it provides that the disclosure requirements of FOIA do not apply to “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). In applying Exemption 6, OGC considered: 1) whether a significant privacy interest would be invaded; 2) whether the release of the records would further the public interest by shedding light on the operations or activities of the Government; and 3) whether in balancing the privacy interests against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy.

From the responsive records, OGC is withholding names of private individuals, settlement amounts for certain litigations, and contact information for DOJ attorneys. Since no public interest would be served by disclosing this information, and since there is a viable privacy interest that would be threatened by such disclosure. Exemption 6 authorizes the withholding of this information.

You are advised of your right to appeal this response within 90 days of receipt of this letter. You should write on the envelope in capital letters "FOIA APPEAL" and reference OGC FOIA Case No. 2018-OGC-01246-F. Address your appeal to:

Inga Bumbarly-Langston
Deputy General Counsel
Room 101-W
Jamie L. Whitten Federal Building
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-1400

If you have any questions regarding this letter, please contact the OGC FOIA Office at foiaofficerogc@usda.gov. You may also seek dispute resolution services from OGC’s FOIA Public Liaison, Karen Carrington. She may be reached at 202-720-5565, or electronically at the same email address above. You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://ogis.archives.gov/mediation-program/request-assistance.htm> for information about how to request OGIS assistance in relation to a FOIA request.

Sincerely,

Harald Fuller-Bennett
FOIA Officer
Office of the General Counsel

Enclosure: Initial Request
Responsive Records (1 Excel Spreadsheet)